The Madhya Pradesh Ayurvigyan Parishad Adhiniyam, 1987

Act 11 of 1990

Keyword(s):
Council, Indian Medical Register, Medicine, Recognize Medical Qualification, Registered Practitioners, State Medical Register

MADHYA PRADESH ACT
(No.11 of 1990)
The Madhya Pradesh Ayurvigyan Parishad Adhiniyam, 1987

[Received assent of the President on the 10th July, 1990: assent first published in the " Madhya Pradesh gazette (Extra Ordinary) ", dated the 24th July 1990]

An Act to consolidate and amend the laws relating to registration of practitioners of medicine in Madhya Pradesh and to make provisions for constitution of the Medical Council for the State and for matters connected therewith.

Be it enacted by the Madhya Pradesh legislature in the (Thirty-Eighth) Year of the republic of India as follows: -

CHAPTER-1- PRILIMINARY

1. Short title extend and commencement

(1) This Act may be called the Madhya Pradesh Ayurvigyan Parishad Adhiniyam, 1987.

(2) It extends to the whole of Madhya Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions

In this Act, unless the contest otherwise requires, -

(a) "Council" means the Madhya Pradesh Ayurvigyan Parishad established under section-3;

(b) "Indian Medical Register" means the Register maintain by the Medical Council of India under section-21 of the Indian Medical Council Act, 1956 (No. 102 of 1956);

(c) "Medicine" means modern scientific medicine in all its branches and includes surgery and obstetrics, but does not include veterinary medicine and surgery;

(d) "Recognize medical qualification" means –

(i) any of the medical qualification for the time being, included in the schedules to the Indian Medical Council Act, 1956 (No.102 of 1956);

(ii) any of the medical qualifications specified in the schedule;

(e) "registered practitioners" means any person enrolled on the State Medical Register under the provisions of this Act;

(f) "regulation" means a regulation made under section-28;

(g) "State Medical Register" means a register maintained under section – 11;

CHAPTER –II - CONSTITUTION OF THE COUNCIL AND APPOINTENT OF REGISTRAR AND OTHER OFFICERS AND SERVANTS.

3. In corporation of State Medical Council.

(1) The State Government shall, as soon as may be, establish, by notification a medical council for the state w.e.f. Such date as may be specified therein.

(2) The council shall be a body corporate by the name of the Madhya Pradesh Ayurvigyan Parishad and shall have perpetual succession and a common seal with power to acquire and hold property, both moveable and immovable, and subject to the provisions of this Act to transfer any property held by it and to contract and do all other thing necessary for the purposes of its constitutions and may sue and be sued in its corporate name;

Provided that the council shall not transfer any property held by, it by way of sell, mortgage, lease or otherwise or borrow money from any person or agency without the previous permission of the State Government.

4. Constitution of Council.

(1) The Council shall consist of following members, namely: -

(a) Five members elected from amongst themselves by persons enrolled on the State Medical Register;

(b) Five members to be nominated by the State Government as follows-

(i) one representative of the Indian Medical Association, Madhya Pradesh State Branch out of the penal of five persons to be proposed by the State Branch of the said association;

(ii) one member from amongst the member of medical faculties of the Universities in the State;

(iii) two members from amongst the Madhya Pradesh Health Services holding class-I Post out of whom one shall be a Lady Doctor;

(iv) a Dean of one of the Government Medical Colleges in the State;

(c) Director Medical Services Madhya Pradesh.

(2) The Director of Medical Services shall be the president of the Council and the Dean shall be the Vice President of the Council.

(3) The name of every person elected or nominated under sub section (1) shall be published in the gazette and the members shall enter and shall, for

the purposes of their term, be deemed to have entered upon their respective offices with effect from the date of such publication.

(4) The Vice President shall perform such duties and exercise such powers of the President as may be assigned to him by the President.

5 Mode of Election.

(1) An election under clause (a) of sub section (1) of section (4) shall be conducted by the council in accordance with such rules as may be made by the State Government in this behalf.

(2) Where any dispute arises regarding any election to the Council, it shall be referred to the State Government in such manner within such period as may be prescribed and the decision of the State Government thereon shall be final and binding.

6. Restriction on the Nomination or membership.

No person shall be eligible for election or nomination under section 4, -

(i) unless his name is born on the State Medical Register; and

(ii) for more than two consecutive terms.

7. Terms of Office of Members.

(1) Subject to the provisions of this Act, an elected or nominated member shall hold office for a term of five years from the date he enters upon his office as provided in sub section (3) of section –4;

Provided that an outgoing member shall continue to hold office till his successors enters upon his office.

(2) An elected or nominated member shall be deemed to have vacated his seat if, in the opinion of the council, he is absent without sufficient excuse from three consecutive ordinary meetings of the council or, if he ceases to be a registered practitioner.

(3) A casual vacancy in the council shall be filled as soon as possible by election or nomination as the case may be, and the person elected or nominated to fill the vacancy shall hold office for the unexpired term off his predecessor.

(4) Where the said term of five years is about to expire in respect of any member, a successor may be elected or nominated at any time within three month before the said term expires, but he shall not assume office until the said term has expired.

8. Meeting of the Council.

(1) The council shall meet atleast twice in each year at such time and place as may be fixed by the president.

(2) Unless otherwise provided by regulation, five member of the council out of whom at least one shall be a non official member shall form a quorum and all question brought any meeting of the council shall be decided by majority of the members present an voting and in the case of equality of votes, the presiding authority shall have a second or casting vote.

9. Allowances to President, Vice President and Members of the Council.

The President, The Vice President and Members of the Council shall be paid such allowances for attending meeting as the council may, by regulations, determine.

10. Registrar and Other Officers.

(1) The Council shall, with the previous sanction of the State government, appoint a registrar who shall Act as secretary and treasurer of the council;

Provided that no person shall be eligible for being appointed as registrar unless he is a Registered Practitioner;

Provided further that for the first four year from the date specified for the establishment of the council under sub section (1) of section-3, the registrar shall be a person appointed by the State Government who shall hold office during the pleasure of the State Government.

(2) The council may, with the previous approval of the State Government create as many posts of officers and servants as it may deem necessary to carry out the provisions of this Act and may appoint officers and servants thereto;

Provided that appointments to the posts, the minimum pay of which is Rs. 1820.00 or above, shall not be made by the council without obtaining the previous approval of the State Government.

(3) The qualifications, the conditions of appointment and service and scale of pay as respects the registrar shall be such as may be prescribed and as regards other employees shall be such as the council may, by regulations, provide.

(4) The council shall require and take from the registrar, or from any other employee, such security for the due performance of his duties as the councils deems necessary.

(5) The registrar and other employees appointed by the council under this section shall be deemed to be public servants within the meaning of section-21 of the Indian Penal Code, 1860(45 of 1860).

CHAPTAR-III - Preparation and maintenance of State Medical Register.

11. Preparation of Register.

(1) The Registrar shall prepare and maintain a State Medical Register of Medical Practitioners for the State, in accordance with the provisions of this Act.

(2) The State Medical Register shall be in such form and shall be divided into such parts as may be prescribed. The register shall include the full name, address and qualifications of the registered practitioner, the date on which each qualification was obtained and such other particulars as may be prescribed.

(3) Any person who possesses a recognized medical qualification shall, at any time on an application made in the prescribed form to the Registrar and on payment of a fee as may be prescribed by regulation and on presentation of his Degree or Diploma, as the case may be, be entitle to have his name entered in the State Medical Register ordinarily within three months after completion of prescribed formalities;

Provided that if a person possesses more then recognize medical qualification, he shall mention in the application all the recognize medical qualifications which he possesses on the date he makes the application;

Provided further that the applicant who is enable to present for sufficient cause, his degree or diploma may be granted a provisional registration for a period not exceeding one year if he satisfies the council that he holds such a degree or diploma.

(4) Notwithstanding anything contented in sub section (3) the name of every person which on the day immediately presiding the date of commencement of this Act stands entered in the register kept by the Mahakoshal Medical Council or the Medical Council, Bhopal shall be entered in the State Medical Register prepared under this Act, without such person being required to make an application or to pay any fee for this purpose.

(5) Every registered practitioner shall be given a certificate of registration in the prescribed form. The registered practitioner shall display the certificate or certified true copy of the certificate of registration at a conspicuous part in the place of his practice.

12. Maintenance of the Register.

(1) It shall be the duty of the registrar of the council to keep the State Medical Register in accordance with the provisions of this Act and of any orders made by the council and from time to time revise the register in the manner prescribed. The registrar shall get the medical register published in the gazette and every change made during the course of a year shall be published annually in the gazette.

(2) Such register shall be deemed to be a public document within the meaning of the Indian evidence Act, 1872 (1 of 1872), and may be proved by a copy published in the gazette.

13. Registration of Additional Qualification.

(1) Every registered practitioner who after the entry of his name in the State Medical Register, obtains any title, Degree or Diploma which is a

recognize medical qualification shall be bound to get the same entered in the State Medical Register in accordance with the provision of this Act.

(2) Every registered practitioner to whom sub section (1) applies shall, on obtaining any title, Degree or Diploma which is a recognize medical qualification, make an application to the council in such form and within such period as may be prescribed together with such fee as may be prescribe by regulations for each qualifications obtained for entering such title, Degree or Diploma in the State Medical Register either in substitution for, or in addition to, any entry previously made;

Provided that where such title, Degree or Diploma has been obtained prior to the date of commencement of this Act such application shall be made within six months from the date of such commencement.

(3) On receipt of the application under sub section (1), the council shall enter the Title, Degree or Diploma in the State Medical Register ordinarily within three months after completion of prescribed formality.

(4) No registered Medical Practitioner who has obtained any additional qualification shall be entitled to use such qualification for the purpose of practice or any other purpose whatsoever or derive any advantage there from during the course of practice or for the purpose of employment unless he gets that qualification registered in the State Medical Register in accordance with the provision of this section.

14. Privileges of Registered Practitioners.

(1) Subject to the conditions and restrictions laid down in this Act or the Indian Medical Council Act, 1956 (No.102 of 1956) regarding medical practice by person possessing certain recognize medical qualification, every person whose name is for the time being born on the State Medical Register shall be entitle, according to his qualifications to practice as a medical practitioner within the state and to recover in respect of such practice any expenses, charges in respect of medicaments or other appliances or any fees to which he may be entitled.

(2) No certificate required by or under any law to be given by a medical practitioner shall be valid unless it is signed by a registered practitioner and bears the seal of his name and registration number.

(3) Every prescription issued by a registered practitioner shall have seal of the name and registration number of such registered practitioner.

(4) No person other than a registered practitioner shall be eligible to hold any appointment as physician, surgeon or medical officer in any hospital asylum, infirmary, dispensary or any other medical institution or medical officer of health in any other allied branch of medicine.

15. Power of Council to prohibit entry or to direct removal from State Medical Register.

The council may, upon reference from the registrar or otherwise prohibit the entry in, or order the removal from, the State Medical Register of the name of any person, -

(a) Who has been sentenced by a criminal court to imprisonment for an offence indicating in the opinion of the council such a defect in character as would render the enrollment or continuance of his name in the State Medical Register undesirable; or

(b) Whom the council after enquiry at which opportunity has been given to him to be heard in person and which may at the discretion of council be held in camera, finds guilty of infamous conduct in any profession respect by a majority of two –thirds of the members of the council present and voting at the meeting but such number shall not be less than five.

16. Alteration of State Medical Register by council.

(1) The council may after giving the person concern reasonable opportunity of being heard and inquiring into his objections, if any, order that any entry in the State Medical Register, which in the opinion of the council, has been fraudulently or incorrectly made or bought about be cancelled or amended.

(2) The council may direct the removal altogether or for a specified period from the State Medical Register of the name of any registered medical practitioner for the same reason for which registration may be prohibited by the council under section-15.

(3) The council may direct that any name removed under sub section (2) shall be restored subject to such condition- if any, which the council may deemed fit to impose.

17. Procedure in enquiries.

For the purpose of any enquiry under section-12, 15 or 16 the council or any committee authorized by rules made under section-29 shall be deemed to be a court with in the meaning of the Indian evidence Act, 1872 (no.1 of 1872), and shall exercise all the powers of a commissioner appointed under the public servant (enquiries) Act, 1850 (No.37 of 1850), and such enquiries shall be conducted, as for as may be, in accordance with the provisions of section-5 and section-8 to 20 of the public servant (enquiries) Act, 1850 (No 37 of 1850) .

18. Appeal against decision of council.

(1) Any person aggrieved by the decision of the council under section-12, 15 or 16 may prefer an appeal to the State Government.

(2) An appeal under section-1 shall be preferred within three months from the date of receipt by the party concern of a copy of such decision and it shall be accompanied by such fee as may be as prescribed by regulation.

CHAPTER-IV –COUNCIL FUND

19. Council fund

(1) The council shall established a fund to be called the council fund.

(2) The following shall form part of, or be paid into, the council fund: -

(a) Any contribution or grant by the central Government or State Government;

(b) The income of the council from all sources including income from fees;

(c) Trusts, bequests, donations, indoments and other grants if any;

(d) All other sums received by the council.

20. Objects to which council fund may be applied .

The council fund shall be applicable to the following object, namely: -

(a) To the repayment of debts incurred by the council for the purposes of this Act and the rules and regulations made there under;

(b) To the expenses of any suit or proceedings to which the council is the party;

(c) To the payment of the salaries and allowances of the employees of the council;

(d) To the payment of the allowances to the office bearers of the council;

(e) To the payment of any expenses incurred by the council in caring out the provisions of this Act and the rules and the regulations made there under.

CHAPTER-V –MISCELLANOUS

21. Prohibition from practice except as provided in this Act or central Act no.102 of 1956.

Save as provided in this Act or the Indian Medical Council Act, 1956 (No.102 of 1956), no person shall practice or hold or himself out, whether directly or indirectly as practising medicine within the state.

22. Control by State Government.

If it any time it appears to the State Government that the council has failed to exercise or has exceeded or abused any of the powers conferred upon it by or under this Act or has failed to perform any of the duties imposed upon it by or under this Act the state government may, if it considers such failure, excess, or abuse to be of a serious nature notify the particulars thereof to the council, and if the council fails to remedy such failure, excess or abuse within such time as the State Government may fix in this behalf, the State Government may dissolve the council for a period of two years which may be extended by the State Government for a period not exceeding one year at a time but the period of dissolution in the aggregate shall not exceed five years and cause all or any of the powers and duties of the council to be exercised and performed by such person and for such period, as it may think fit and shall take stapes to bring into existence a new council.

23. Information to be furnished by council and publication thereof.

(1) The council shall furnish such report, copies of its minutes, abstract of its account, and other information to the State Government as the State Government may require.

(2) The State Government may publish in such manner as it may think fit, any report, copy, abstract or other information furnished to it under this section.

24. Penalty.

If any person whose name is not enrolled on the State Medical Register practices as a registered medical practitioner, he shall be punishable with rigorous imprisonment for a term which may extend two three years and with fine which may extend to Five Thousand Rupees;

Provided that, -

(i) the person possessing bachelor in Ayurvedic with Modern Medicine and Surgery Degree and registered with the Madhya Pradesh Board of Ayurvedic and Unani Systems of Medicine and Naturopathy shall not be punishable under this section for prescribing allopathic medicines or practicing surgery if his registration certificate authorizes him to do so;

(ii) The medical practitioner entitled to privileges of section-27 of the Indian Medical Council Act, 1956 (No.102 of 156) shall not be punishable under this section for his non-registration in Madhya Pradesh.

25. Vacancy not to invalidate proceeding etc.

No Act or proceeding of the council shall be invalid merely by reason of, -

(a) any vacancy in, or defect in the constitution thereof; or

(b) any defect in the election or nomination of a person acting as member thereof; or

(c) any irregularity in its procedure not affecting the merits of the case.

26. Protection of Action taken in good faith.

No suit, prosecution or other legal proceeding shall lie against the State Government, the council or any committee thereof, or any officer or servant of the Government or the Council for anything which is in good faith done or intended to be done, under this Act.

27. Power to make rules by State Government.

(1) The State Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely: -

(a) The qualification, conditions of appointment and service, the scale of pay, the tanner of office and the powers and duties of the registrar;

(b) Any other matter which has to be or may be prescribed.

(3) All rules made under this Act shall be laid on the table of legislative assembly.

28. Power to make regulations by council.

The council may, with the previous sanction of the State Government, make regulations generally to carry out the purposes of this Act, and, without prejudice to the generality of this power, such regulations may provide for, -

(a) The management of the property of the council and the maintenance and audit of its accounts;

(b) The summoning and holding of meetings of the council, the time and places where such meetings are to be held and the conduct of business thereat;

(c) The registration of member of the council;

(d) The powers and duties of the President and Vice President;

(e) The mode of appointment of the committee, the summoning and holding of meetings and the conduct of business of such committees;

(f) The qualifications and conditions of service of other employees of the council;

(g) The particulars to be stated and the proof of qualifications to be given in the application for registration under this Act;

(h) The fee to be paid on applications and appeals made under this Act;

(i) The fee to be paid for entering additional qualification in the State Medical Register, and

(j) Any matter for which under this Act provision may be made by regulations.

CHAPTER-VI-REPEAL AND TRANSITIONAL PROVISIONS

29. Transitional Provisions.

(1) The State Government may for bringing the council into being in accordance with the provisions of this Act appoint the director of medical

services to be a special officer to conduct election of council to be established for the first time after the commencement of this Act.

(2) Till the council is established under sub section-1 of section (5) the special officer appointed under sub section (1) shall be deemed to be council establish under sub section (1) of section-3 for the purposes of this Act and shall exercise the powers and discharges the function of the council.

30. General Provisions applicable to medical practitioners.

The provisions of this Act are in addition and not in derogation of, the provisions of the Indian Medical Council Act, 1956 (No. 102 of 1956), containing general provisions applicable to all medical practitioners.

31. Repeal and other consequences.

As from the date of commencement of this Act, the following consequences shall ensue, namely:-

(a) The central province and berar medical registration Act, 1916 (No. 1 of 1916) and the Madhya Pradesh statutory bodies (regional construction) Act, 1956 (XVII of 1956), in so for as it relates to the said Act, the Madhya Bharat Medical Practitioners Registration Act, 1954 (No.16 of 1954) and the medical practitioners registration Act, 1935 (Bhopal Act VII of 1935), in so for as it relates to registered practitioners practicing medicine as define in clause-C of section-2 shall stand repealed;

(b) The Mahakoshal Medical Council, The Madhya Bharat (Region) Medical Council and the Medical Council established under section-3 of the medical practitioners registration Act, 1935 (Bhopal Act VII of 1935) shall stand dissolved;

(c) All assets and liabilities of the councils referred to in clause-B shall belong to and be deemed to be the assets and liabilities of the council establish or deemed to be established under section-3;

(d) All records and papers belonging to the councils referred to in clause-B shall vest in and be transferred to the council established or deemed to be established under section-3.

	SCHEDULE [See section 2-D]	
Medical Institution by which granted.	Recognize Medical Qualification.	Abbreviation for registration.
(1)	(2)	(3)
Robertson Medical School Nagpur.	Rural Medical Practitioner.	R.M.P.
	Diploma in Medical Practice.	D.M.P.